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SENATE

REPORT
No. 91-1419

AMENDING THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES, AS AMENDED

DECEMBER 8, 1970.—Ordered to be printed

Mr. STENNIS, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany S. 4571]

The Committee on Armed Services, having had under consideration the question of amending the Central Intelligence Agency Retirement Act reports the bill (S. 4571), to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes, and recommends that it do pass.

PURPOSE OF THE BILL

The bill makes certain changes in the CIA Retirement Act of 1964 which will conform to provisions enacted into law with respect to the Civil Service Retirement Act. The bill also makes two other changes.

The conforming amendments deal with definitions relating to child survivors, commencement date of annuities, and a formula for crediting prior Federal service not covered by contributions. The remaining two changes provide for transfer of employer contributions into and out of the CIA retirement fund and increase the ceiling on retirements.

BACKGROUND

The CIA Retirement Act was enacted to provide a comprehensive retirement and disability program for a limited number of employees whose duties either were in support of Agency activities abroad, hazardous to life or health, or so specialized as to be clearly distinguishable from normal Government employment.

The Central Intelligence Agency operates under two retirement systems—the regular civil service retirement system for the majority of its employees and the one established under the CIA Retirement

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Act for a smaller number. The primary purpose of the latter system is to sustain a shorter career base for service where the conditions of employment are substantially different from those associated with normal Government employment. Key provisions of the CIA Retirement Act include a straight 2-percent factor in the computation formula and retirement eligibility at age 50 after 20 years of service, both modeled after civil service provision for certain personnel involved in law enforcement activities (5 U.S.C. 8336(c)). Other provisions of the CIA Retirement Act are, for the most part, also patterned after those of the civil service retirement system.

As the principal features of the CIA and the civil service systems are the same, failure to keep pace with civil service improvements tends to dilute the effectiveness of the CIA retirement system, especially where comparability once existed.

Public Law 90-539 (bringing the cost-of-living provision of the CIA Retirement Act back into consonance with the civil service retirement system) and Public Law 91-185 (incorporating the benefits of the McGee-Daniels bill) serve as precedent for the approval of conforming amendments for the CIA Retirement Act as proposed in this report.

SECTIONAL ANALYSIS

DEFINITION "CHILD"

Section 1

Section 1 does three things: First, it eliminates the requirement that a child be dependent upon a parent retiree in order to receive a survivor annuity. The present definition of a child requires that the child receive more than half his support from the participant to be eligible. This requirement could defeat a survivor annuity based on the service of a working mother. This support requirement was eliminated from the Civil Service Retirement Act by the 89th Congress. (Public Law 89-504.)

Second, it also raises from 21 to 22 the maximum age for receiving survivor annuity payments as a student and increases from 4 to 5 months as the maximum absence from school which may be permitted without terminating the survivor annuity. This will aid survivor children enrolled in trimester programs to secure employment and earn money without losing their annuity.

This same action was taken by the 89th Congress for student beneficiaries under the Civil Service Retirement Act. (Public Law 89-407, 504.)

Lastly, it permits a natural child to share in the distribution of any money in the CIA retirement and disability fund. The act today clearly permits a natural child to receive an annuity but it is not entirely clear with respect to lump-sum benefits. This would correct this deficiency.

A similar provision amending the Civil Service Retirement Act was approved by the 89th Congress. (Public Law 89-407.)

CHILD'S ANNUITY

Section 2

This section provides for the commencement and termination date for a child survivor annuity and assures that the survivor annuity of

a student may be resumed even though it had previously been terminated, as for example, because of military service. Today once an annuity has been terminated because of an absence between school terms in excess of the maximum absence authorized, the annuity cannot be resumed.

A similar amendment to the Civil Service Retirement Act was approved by the 89th Congress. (Public Law 89-504.)

ANNUITY COMMENCEMENT DATE

Section 3

This section makes a technical change in the law which will authorize the commencement of an annuity as soon as the individual enters a nonpay status. Under existing law, an annuitant must wait until the beginning of the month following his date of separation.

It also incorporates specific provisions for termination of annuities to retirees and survivors.

This will conform the CIA retirement system to the civil service retirement system in this respect. (5 U.S.C. 8345.)

PRIOR SERVICE CREDIT (PARTICIPANTS)

Section 3

Section 3 makes a technical change in the law which will provide an option to credit prior civilian service for which no deductions have been made by reducing the resulting annuity by 10 percent of the amount owed. This will conform the CIA retirement system to the civil service system in this respect. (5 U.S.C. 8339(h).)

INCREASE IN CEILING OF NUMBER WHO MAY BE RETIRED

Section 4

Section 4 increases to 800 the retirement ceiling imposed on anticipated retirements through June 30, 1974. Under existing law, retirements during the formative years of the system were limited to 400 for the first 5-year period ending June 30, 1969, and 400 for the second 5-year period ending June 30, 1974. In the absence of actuarial experience the establishment of a ceiling on retirements was necessarily somewhat arbitrary. The ceiling was established with the understanding of all concerned that it would be adjusted as necessary. Experience to date has indicated that the ceiling of 400 for the second 5-year period is insufficient. In the interest of orderly and equitable personnel management an increase in this ceiling is essential. The Agency is rapidly reaching the ceiling now established by law and without the increase would be unable to accommodate the numbers who will go on the retired list prior to June 1974.

TRANSFER OF GOVERNMENT CONTRIBUTIONS

Section 5

Under existing law, an individual who transfers into the CIA retirement fund from some other Government retirement system can transfer his contributions from the other fund to the CIA fund, but there is no provision for transfer of the Government contribution to such fund.

Also, when an individual transfers from the CIA retirement fund to some other Government retirement fund, there is no provision for the transfer of either the Government's contribution or his own contribution to the non-CIA retirement fund. This section would correct the inequities of this situation.

The Civil Service Commission is wholly in accord with this change.

PRIOR SERVICE CREDIT (SURVIVORS)

Section 6

Section 6 makes a technical change in the law granting to survivors the same right afforded participants to purchase retirement credit for prior civilian service.

This will conform the CIA retirement system to the civil service retirement system in this respect. (5 U.S.C. 8334)

FISCAL DATA

The amendments do not involve a measurable cost impact for either fiscal year 1971 or fiscal year 1972.

DEPARTMENTAL DATA

Enactment of this legislation has the support of the Central Intelligence Agency and the approval of the Office of Management and Budget as evidenced by the letter from the Acting Director of Central Intelligence dated October 13, 1970, which is set out below and made a part of this report.

CENTRAL INTELLIGENCE AGENCY,
OFFICE OF THE DIRECTOR,
Washington, D.C. October 13, 1970

HON. SPIRO T. AGNEW,
President of the Senate
Washington, D.C.

MY DEAR MR. PRESIDENT: This letter transmits for the consideration of the Congress a draft bill amending the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

The proposed legislation brings the CIA Retirement Act into consonance with certain provisions of the Civil Service retirement system. Also included are several adjustments which have been identified as important during the first 6 years of the administration of the act. The proposals are explained in detail in the sectional analysis and explanation which is enclosed.

We would appreciate early and favorable consideration of the proposed legislation. The Office of Management and Budget has advised that there is no objection to presenting the proposed legislation to the Congress from the standpoint of the administration's program.

Sincerely,

R. E. CUSHMAN, JR.,
Lieutenant General, USMC, Acting Director.

Enclosures.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in *italic*):

Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note).

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TITLE II—THE CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

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PART A—ESTABLISHMENT OF SYSTEM
RULES AND REGULATIONS

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ANNUITANTS

SEC. 204. (a) Annuitants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, dependent widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this Act the term—

(1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by marriage to the participant.

(2) "Dependent widower" means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by marriage to the participant, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

(3) "Child", for the purposes of sections 221 and 232 of this Act, means an unmarried child, including (i) an adopted child, and (ii) a stepchild or recognized natural child who [received more than one-half of his support from and] lived with the participant in a regular parent-child relationship, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support, or such unmarreid child between eighteen and [twenty-one] *twenty-two* years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child whose [twenty-first] *twenty-second* birthday occurs prior to July 1 or after August 31 of any calendar year, and while he is regularly pursuing such a course of study or training, shall be deemed for the purposes of

this paragraph and section 221(e) of this Act to have attained the age of ~~twenty-one~~ *twenty-two* on the first day of July following such birthday. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed ~~four~~ *five* months and if he shows to the satisfaction of the Director that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim. *The term "child", for purposes of section 241, shall include an adopted child and a natural child, but shall not include a stepchild.*

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PART C—COMPUTATION OF ANNUITIES

SEC. 221.

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(c) **¶**The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the day after the participant dies, and such annuity or any right thereto shall terminate on the last day of the month before (1) his attaining age eighteen unless incapable of self-support, (2) his becoming capable of self-support after age eighteen, (3) his marriage, or (4) his death, except that the annuity of a child who is a student as described in section 204(b)(3) of this Act shall terminate on the last day of the month before (1) his marriage, (2) his death, (3) his ceasing to be such a student, or (4) his attaining age twenty-one.

The commencing date of an annuity payable to a child under paragraph (c) or (d) of this section, or (c) or (d) of section 232, shall be deemed to be the day after the annuitant or participant dies, with payment beginning on that day or beginning or resuming on the first day of the month in which the child later becomes or again becomes a student as described in section 204(b)(3), provided the lump-sum credit, if paid, is returned to the fund. Such annuity shall terminate on the last day of the month before (1) the child's attaining age eighteen unless he is then a student as described or incapable of self-support, (2) his becoming capable of self-support after attaining age eighteen unless he is then such a student, (3) his attaining age twenty-two if he is then such a student and not incapable of self-support, (4) his ceasing to be such a student after attaining age eighteen unless he is then incapable of self-support, (5) his marriage, or (6) his death, whichever first occurs.

(f) Any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest (as that term is used in section 9(h) of the Civil Service Retirement Act (5 U.S.C. 2259(h))) in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 percentum of an annuity computed as provided in paragraph (a) of this section, and by 5 percentum of annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 percentum. The annuity

of a survivor designated under this paragraph shall be 55 percentum of the reduced annuity computed as prescribed above. [The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable.]

* * * * *

(i) Except as otherwise provided, the annuity of a participant shall commence on the day after separation from the service, or on the day after salary ceases and the participant meets the service and the age or disability requirements for title thereto. The annuity of a participant under section 234 shall commence on the day after the occurrence of the event on which payment thereof is based. An annuity otherwise payable from the fund allowed on or after date of enactment of this provision shall commence on the date after the occurrence of the event on which payment thereof is based.

(j) An annuity payable from the fund on or after date of enactment of this provision shall terminate (1) in the case of a retired participant, on the day death or any other terminating event occurs, or (2) in the case of a survivor, on the last day of the month before death or any other terminating event occurs.

(k) The annuity computed under this section is reduced by 10 percent of a special contribution described by section 252(b) remaining unpaid for civilian service for which retirement deductions have not been made, unless the participant elects to eliminate the service involved for the purpose of annuity computation.

PART D—BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

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LIMITATION ON NUMBER OF RETIREMENTS

SEC. 236. The number of participants retiring on an annuity pursuant to sections 233, 234, and 235 of this Act shall not exceed a total of four hundred during the period ending on June 30, 1969, nor a total of [four hundred] *eight hundred* during the period beginning on July 1, 1969, and ending on June 30, 1974.

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PART F—PERIOD OF SERVICE FOR ANNUITIES

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PRIOR SERVICE CREDIT

SEC. 252.

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(b) A participant may obtain prior civilian service credit in accordance with the provisions of paragraph (a) (1) of this section by making a special contribution to the fund equal to the percentage of his basic annual salary for each year of service for which credit is sought specified with respect to such year in the table relating to employees contained in section 4(c) of the Civil Service Retirement Act (5 U.S.C.

2254(c)), together with interest computed as provided in section 4(c) of such Act (5 U.S.C. 2254 (c)). Any such participant may, under such conditions as may be determined in each instance by the Director, pay special contributions in installments.

(c)(1) If an officer or employee under some other Government retirement system becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed at the rate of 3 percent a year compounded annually) under such retirement system on behalf of the officer or employee shall be transferred to the fund and such officer or employee's total contributions and deposits [.] (including interest accrued thereon), except voluntary contributions, shall be transferred to his credit in the fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

If an officer or employee under some other Government retirement system becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed at the rate of 3 percent a year compounded annually) under such retirement system on behalf of the officer or employee shall be transferred to the fund and such officer or employee's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to his credit in the fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

(2) If a participant in the system becomes an employee under another Government retirement system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed at the rate of 3 percent a year compounded annually) to the fund on his behalf shall be transferred to the fund of the other system and his total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to his credit in the fund of such other retirement system effective as of the date he becomes eligible to participate in such other retirement system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the fund on account of service rendered prior to his becoming eligible for participation in such other system.

[(2)] (3) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c)(1) of this section, shall be required to make contributions in addition to those transferred for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed for employees by section 4(c) of the Civil Service Retirement Act (5 U.S.C. 2254(c)) for contributions to the fund.

【(3)】 (4) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c)(1) of this section, shall receive credit for periods of service for which a refund of contributions has been made, or for which no contributions were made to the other Government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the fund in accordance with the provisions of paragraph (b) of this section.

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(g) *For the purpose of survivor annuity, special contributions authorized by paragraph (b) of this section may also be made by the survivor of a participant.*

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